

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of APRIL NICOLE TERRY, ERIN
TERRY and CHRISTINA TERRY, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

JAMES EDWARD TERRY,

Respondent-Appellant,

and

ANN MARIE TERRY,

Respondent.

UNPUBLISHED

August 12, 2004

No. 253475

Oakland Circuit Court

Family Division

LC No. 00-634112-NA

Before: Hoekstra, P.J., and Cooper and Kelly, JJ.

MEMORANDUM.

Respondent James Terry appeals as of right from a circuit court order terminating his parental rights to the minor children pursuant to MCL 712A.19b(3)(b)(i), (g), (j) and (k)(iii). We affirm.

Respondent first contends that the court failed to comply with the notice requirements of the ICWA by delaying notification to the affected tribes. We disagree. Petitioner gave two tribes notice of the proceedings as required by MCR 3.980(A)(2) and 25 USC 1912(a). Although the court failed to provide notice immediately upon the institution of the proceedings, the tribes' rights to intervene were not affected. The tribes' rights may be exercised "at any point in the proceedings," 25 USC 1911(c), even after an order of termination has been entered. See *In re IEM*, 233 Mich App 438, 449-450; 592 NW2d 751 (1999).

Respondent next contends that the court erred in accepting his no contest plea to the allegations in the amended petition. We disagree. The record shows that the trial court complied with the requirements of MCR 3.971 in taking the plea. Respondent stated that he understood his rights and that his plea was voluntary. Nothing in the law requires that respondent confirm the voluntariness of his plea in writing. Although respondent was absent from the courtroom, he

did not have an absolute right to be physically present. *In re Vasquez*, 199 Mich App 44, 49; 501 NW2d 231 (1993). Respondent participated in the hearing by speaker phone as is permitted by MCR 3.923(E) and was able to confer with counsel, who was in the courtroom. Therefore, respondent's due process rights were not violated. *Vasquez, supra*.

Affirmed.

/s/ Joel P. Hoekstra
/s/ Jessica R. Cooper
/s/ Kirsten Frank Kelly